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### REMARKS

The Examiner is thanked for the careful examination of the application, and for the indication of allowable subject matter. However, in view of the remarks that follow, the Examiner is respectfully requested to reconsider and withdraw the outstanding rejection.

Claim 1 has been amended as set forth above to define that the one end of each of the two separate belts is permanently fastened to the absorbent part. This amendment is not made to further distinguish the claim over *Herrin*. The amendment is supported at page 4, lines 33-35 of the application. Accordingly, in view of the fact that the amendment is clearly supported by the specification, and is not made for purposes of further distinguishing the claims over the applied prior art, it does not raise any new issues. Accordingly, entry of the Amendment After Final Rejection is appropriate, and thus respectfully requested.

Claims 1-3 have been rejected under 35 U.S.C. §102(e) as being allegedly anticipated by U.S. Patent No. 5,706,524, hereinafter *Herrin*. *Herrin* discloses a garment 20, shown in Figure 1, that includes an absorbent part 21 and a waist belt 30. As recognized by the Examiner, the waist belt 30 comprises two separate belts, and one end of each of the two separate belts is fastened to the absorbent part 21. At the opposite ends of the two separate belts are hook and loop type fastener elements 36, 37 (Figure 3) or 36a', 36b', 37a', 37b' (Figure 8).

The *Herrin* fasteners 36, 37 are disclosed as hook and loop type fasteners intended to fasten to a mating hook or loop type fastener 22 which is secured to an upper peripheral end portion of the disposable under garment panel 21. See column 6, lines 37-41. Thus,

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the fasteners 36, 37 are intended to attach to elements 22, which can be seen in Figures 1 and 2. Clearly, there is nothing to teach or suggest that the fastener 36 can attach to the fastener 37. Thus, the opposite ends of the two separate belts are not capable of being fastened together around the wearer of a garment, as alleged by the Examiner, and recited in claim 1.

Furthermore, there is nothing to suggest that the belts 30 are made of a material to which the fasteners 36, 37 can attach. The belt materials 31, 32, are disclosed as nonwoven. However, there is no indication in the patent that the particular material can adhere to a hook and look type fastener, absent adhesive or some other means. In addition, it appears that the ends of the belts 30 would not even reach each other when the diaper is worn. See Fig. 1, wherein there is a sizable gap between the free ends of the belts 30.

Claim 1 requires that the opposite ends of each of the two separate belts extend in respective directions from the absorbent part and are intended to be fastened together around a wearer of the garment. In a preferred embodiment of the present invention, which is illustrated in Figure 1, one end of one of the two separate belts includes a fastener device 6 that is adapted to be secured to the other end of the other of the two belts 8. See page 5, lines 18-22.

In view of the fact that there is no teaching or suggestion that the ends of the belts 30 in *Herrin* can be fastened together, as required by claim 1, the Examiner is respectfully requested to reconsider and withdraw the outstanding rejection.

Accordingly, in view of the fact that there is no teaching or suggestion in *Herrin* of fastening the ends of the belts 30 together, *Herrin* does not teach or suggest the subject

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matter of claim 1. Claims 2 and 3 depend from claim 1, thus all three claims are patentable over the applied prior art.

In the event that there are any questions concerning this Amendment, or the application in general, the Examiner is respectfully urged to telephone the undersigned attorney so that prosecution of the application may be expedited.

Respectfully submitted,

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#### CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark Office Fax. No. (703) 306-4520 on October 10, 2002.

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**Attachment to Amendment dated October 10, 2002**

**Marked-up Claim 1**

1. (Four Times Amended) A garment comprising an absorbent part and a waist belt which has a longitudinal direction and a cross-direction and which is attached directly or indirectly to said garment, wherein said belt includes two separate belts which extend generally in said longitudinal direction, one end of each of the two separate belts is permanently fastened to the absorbent part, and opposite ends of each of the two separate belts extend in respective directions from said absorbent part and are intended to be fastened together around a wearer of the garment, which belts have a stiffness that varies in the cross-direction of the belts, wherein the stiffness that varies has an extension in the longitudinal direction that essentially coincides with the length of the belts.